

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
CURATED WORKS INC.,	:	
	:	
Plaintiff,	:	<u>ORDER</u>
	:	
-v.-	:	19 Civ. 11509 (LAK) (GWG)
	:	
DEAL.COM, INC.,	:	
	:	
Defendant.	:	
-----X	:	

GABRIEL W. GORENSTEIN, United States Magistrate Judge

In its letter of May 13, 2020 (Docket # 39), plaintiff inexplicably never discusses why there is any utility in raising the issues in the proposed motion now rather than after discovery is concluded as the Court had suggested (Docket # 36). Thus, nothing in this letter supports the view that the proposed motion will materially advance this proceeding — much less “secure [its] just, speedy, and inexpensive determination.” F. R. Civ. P. 1. To the contrary, the proposed motion seems destined simply to result an unnecessary expenditure of attorney’s fees by both sides.

That being said, the Court is not prepared to state definitively that it will deny plaintiff the opportunity to make a motion at any time prior to the close of discovery of the kind proposed in its letter. However, given that the plaintiff has identified purported flaws in the counterclaim and defenses, the Court concludes that it would be appropriate to allow defendant an opportunity to amend the counterclaim and defenses if it wishes to do so. Accordingly, the Court sua sponte extends any existing deadline for such an amendment to June 4, 2020. If no amended answer or counterclaims are filed by that date, plaintiff may seek to reinstate the request made in its letter. If an amended answer or counterclaims are filed, plaintiff may submit a new letter if it still identifies flaws in the defendant’s filing and has a sound basis for pursuing a motion to dismiss or strike. In either event, any new letter from plaintiff should explain why adjudicating the motion at that time would have any affect on the course of discovery or any other aspect of this case.

SO ORDERED.

Dated: May 14, 2020
New York, New York



GABRIEL W. GORENSTEIN
United States Magistrate Judge

